

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF NORTH CAROLINA
3 CHARLOTTE DIVISION
4 CIVIL ACTION NO. 3:20-CV-00504-FDW-DSC

5 CPI SECURITY SYSTEMS, INC.,)

6 Plaintiff,)

7 vs.)

8 VIVINT SMART HOME, INC. f/k/a)

Mosaic Acquisitions Corporation;)

9 and LEGACY VIVINT SMART HOME,)

INC. f/k/a Vivint Smart Home,)

10 Inc.,)

11 Defendants and)

Counterclaimants.)

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16
17 DEPOSITION OF JANET NEWMARK

18 (TAKEN BY PLAINTIFF)

19 TAKEN VIA ZOOM

20 Wednesday, August 25, 2021

21 Reported in Stenotype by

22 Erin Ramsey

23 Transcript produced by computer-aide transcription

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 ON BEHALF OF PLAINTIFF:</p> <p>3 CHARLES EBLEN, ESQUIRE</p> <p>4 Shook, Hardy & Bacon, LLP</p> <p>5 2555 Grand Boulevard</p> <p>6 Kansas City, Missouri 64108</p> <p>7 (816) 474-6550</p> <p>8 Ceblen@chb.com</p> <p>9</p> <p>10 ON BEHALF OF DEFENDANT:</p> <p>11 MATTHEW STEWARD, ESQUIRE</p> <p>12 Clyde Snow</p> <p>13 201 S. Main Street</p> <p>14 Suite 1300</p> <p>15 Salt Lake City, Utah 84111</p> <p>16 (801) 322-2516</p> <p>17 Mas@clydesnow.com</p> <p>18 Also Present:</p> <p>19 David Cooper, Videographer</p> <p>20</p> <p>21 DEPOSITION OF JANET NEWMARK, a witness called</p> <p>22 on behalf Plaintiff, before Erin Ramsey, Notary</p> <p>23 Public, in and for the State of North Carolina, taken</p> <p>24 via Zoom, on Wednesday, August 25, 2021, commencing at</p> <p>25 11:04 a.m.</p>	<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: We're going on the</p> <p>2 record at 11:04:15 a.m., Wednesday, August 25th, 2021.</p> <p>3 This is media unit number one of the remote video</p> <p>4 recording deposition of Janet Newmark taken by counsel</p> <p>5 for the plaintiff in matter of CPI Security Systems,</p> <p>6 Inc., versus Vivint Smart Home, Inc, f/k/a Mosaic</p> <p>7 Acquisition Corporation and Legacy Vivint Smart Home,</p> <p>8 Inc, f/k/a Vivint Smart Home, Inc. In the United</p> <p>9 States District Court for the Western District of</p> <p>10 North Carolina Charlotte Division, Case No.</p> <p>11 3:20-CV-00504-FDW-DSC.</p> <p>12 The witness for this remote video</p> <p>13 deposition is located at 2706 Cheverny Place, Unit</p> <p>14 193m Concord, North Carolina, 28027. My name is David</p> <p>15 Cooper, I'm the certified legal videographer with</p> <p>16 Veritext. Would counsel and all those attending</p> <p>17 remotely please state their name and who they</p> <p>18 represent beginning with the noticing attorney.</p> <p>19 MR. EBLEN: Yes. This is Charlie Eblen</p> <p>20 for the plaintiff, CPI.</p> <p>21 MR. STEWARD: Matt Steward and Greg</p> <p>22 Herbert on behalf of the defendants.</p> <p>23 THE VIDEOGRAPHER: The court reporter,</p> <p>24 Erin Ramsey, will now swear in the witness and you're</p> <p>25 on mute.</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX OF EXAMINATIONS</p> <p>2 BY MR. EBLEN..... PAGE 5</p> <p>3 BY MR. STEWARD..... PAGE 28</p> <p>4 BY MR. EBLEN..... PAGE 45</p> <p>5 BY MR. STEWARD..... PAGE 46</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Job No. CS4771065</p>	<p style="text-align: right;">Page 5</p> <p>1 JANET NEWMARK,</p> <p>2 called as a witness by the Plaintiff, was first duly</p> <p>3 sworn, as hereinafter certified, examined, and</p> <p>4 testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. EBLEN:</p> <p>7 Q. Good morning, Ms. Newmark. How are you today?</p> <p>8 A. Good morning. I'm doing well. Thank you.</p> <p>9 Q. So I wanted to start just by getting a little</p> <p>10 bit of background information for you. Could you</p> <p>11 introduce yourself for the jury, please.</p> <p>12 A. Sure. I'm Janet Newmark.</p> <p>13 Q. Where do you live currently?</p> <p>14 A. I live at 2706 Cheverny Place in Concord, North</p> <p>15 Carolina.</p> <p>16 Q. Are you originally from North Carolina?</p> <p>17 A. No, I'm not.</p> <p>18 Q. Where are you from?</p> <p>19 A. Most recently from Connecticut.</p> <p>20 Q. And who do you live with out there in your</p> <p>21 condo in Concord?</p> <p>22 A. It's actually not a condo, it's a home. The</p> <p>23 unit 193 was actually my lot number and then I don't</p> <p>24 use that now. But yeah -- but I live with my husband,</p> <p>25 Evan Newmark.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q. And was there a time that you had some 2 interactions with Vivint?</p> <p>3 MR. STEWARD: Objection, form, leading. 4 Go ahead. Ms. Newmark, I apologize. My 5 name is Matt Steward and I'm an attorney who 6 represents Vivint in this matter and I may from time 7 to time have an objection to a question, the form of 8 the question. I apologize for the interruption. You 9 can go ahead as long as still have the question in 10 mind you can go ahead and answer. Sometimes witnesses 11 will have forgotten the question and you certainly can 12 ask Mr. Eblen to repeat it.</p> <p>13 THE WITNESS: Okay. Thank you.</p> <p>14 Q. Do you remember about when you first 15 encountered someone from Vivint?</p> <p>16 MR. STEWARD: Objection, form, leading. 17 Q. You can answer.</p> <p>18 A. How am I -- what am I supposed to do? Just not 19 answer anything?</p> <p>20 MR. STEWARD: No, no. Again, I was try to 21 explain. From time to time will enter an objection to 22 the form of the question because I think there's some 23 defect with the question. For instance, that's it's 24 suggesting the answer, that's a leading objection. As 25 long as you still have the question in mind go ahead</p>	<p style="text-align: right;">Page 8</p> <p>1 program. Their alarm company.</p> <p>2 Q. And you said he, do you know who this 3 gentleman's name is that you believe was from Vivint?</p> <p>4 A. Shane.</p> <p>5 Q. Do you know Shane's last name?</p> <p>6 A. No, I do not.</p> <p>7 Q. All right. So as I understand it you're 8 outside and you're approached by a gentleman from 9 Vivint; is that right?</p> <p>10 A. Yes, yes.</p> <p>11 Q. All right. And when you first met Shane 12 outside what did he say to you?</p> <p>13 A. He asked if he could come in and talk to us 14 about switching to Vivint and I told him that I 15 literally just moved -- I just got in at midnight the 16 night before and we just woke up and we were -- had 17 heard about them and we were thinking of calling them 18 later but we weren't interested in talking now because 19 we were exhausted and he told me this will only take 20 five minutes. And I said I really don't know, my 21 husband's inside and you would need to speak to him. 22 So I went and asked him if he could spare five minutes 23 and so my husband said okay.</p> <p>24 And the only reason that I did go in and ask my 25 husband is that Shane told me that if we agreed to</p>
<p style="text-align: right;">Page 7</p> <p>1 and answer it.</p> <p>2 THE WITNESS: Okay.</p> <p>3 MR. STEWARD: Unless you're instructed not 4 to answer which is not going to happen during this 5 deposition. I'm just saying sometimes because of that 6 interruption you may not have a perfect recollection 7 of the question and feel free to ask Mr. Eblen or when 8 I'm asking you questions ask me to repeat the 9 question. Does that make sense.</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. STEWARD: Okay. Thank you.</p> <p>12 BY MR. EBLLEN:</p> <p>13 Q. Ms. Newmark, have you ever met anyone from 14 Vivint?</p> <p>15 A. Yes, I have.</p> <p>16 Q. Okay. When did you meet someone from Vivint?</p> <p>17 MR. STEWARD: Objection, form.</p> <p>18 A. I believe the date was June 27th, 2020. It was 19 the day after I moved in from -- I had just moved the 20 night before from Connecticut so it was the very next 21 morning.</p> <p>22 Q. How did that come about?</p> <p>23 A. He had been at my neighbor's house and I was 24 throwing something out in the trash cans and he saw me 25 and asked if he could come in and talk to me about the</p>	<p style="text-align: right;">Page 9</p> <p>1 talk to him now that they can offer us three months of 2 our service -- our monitoring service for free and 3 otherwise that would not be if he had to come back 4 later.</p> <p>5 Q. And so --</p> <p>6 A. We did agree to meet with him.</p> <p>7 Q. Okay. So the offer of three months free 8 service, was that part of what led you to allow him to 9 come into your home?</p> <p>10 MR. STEWARD: Objection, form, leading.</p> <p>11 A. Yes.</p> <p>12 Q. Go ahead.</p> <p>13 MR. STEWARD: You're fine, Ms. Newmark.</p> <p>14 A. Yes, it was because I really was not -- we 15 literally just got home at midnight the night before 16 and by the time we went to bed it was after 3:00 a.m. 17 and this was around 9:00 a.m. and we were exhausted 18 and really didn't want to talk to him and I tried to 19 telling him I will call you later but right now is not 20 a good time, but he was very insistent and said, you 21 know, he could give us this discount if we would talk 22 to him now but it wouldn't be available later and he 23 promised -- he actually said I promise this will only 24 take five minutes.</p> <p>25 Q. All right. For some more background as I</p>

<p style="text-align: right;">Page 10</p> <p>1 understand it you said you just moved in, were you 2 fully moving from Connecticut to make North Carolina 3 your permanent residence? 4 A. Yes, yes. We actually owned the home for two 5 years prior and we were living in Connecticut and we 6 had some belongings here, you know, furniture here, 7 but we didn't live here. This was not our actual 8 place of residence because my husband was still 9 employed in Connecticut and we literally just moved 10 in. We drove 13 hours from Connecticut to North 11 Carolina and arrived at midnight the night before. 12 And that's what I told Shane, that we're really 13 tired and we'll call him later and he was just very 14 insistent and promised -- he promised, I swear I will 15 only be five minutes. 16 Q. All right. So at the time you run into Shane 17 out by the trash cans at your home, at that moment 18 when he stopped by were you interested in talking 19 about a new alarm system? 20 A. No, I was not. 21 MR. STEWARD: Objection to form. 22 Ms. Newmark, just if you could, I know 23 it's not natural because this isn't how we typically 24 communicate, but if you could just pause briefly after 25 the question is asked before you answer that will</p>	<p style="text-align: right;">Page 12</p> <p>1 wound up switching over. 2 Q. All right. And as I understand it -- so you 3 said you've been a CPI customer. For how long had you 4 had CPI in that home? 5 A. Two years. 6 Q. At any point in time when you were speaking to 7 Shane on that day, did he say anything that would 8 suggest to you or your husband that Vivint had some 9 sort of relationship or any association with CPI? 10 MR. STEWARD: Objection, form, leading. 11 Q. You can answer. 12 A. I'm not quite sure what you mean by that. 13 Q. Yeah. And I'm asking if he said anything to 14 you that would have suggested that there was any sort 15 of relationship between CPI and Vivint. 16 MR. STEWARD: Objection, form, leading. 17 THE WITNESS: May I answer? 18 MR. STEWARD: Yes. 19 A. The only thing that I distinctly remember him 20 comparing CPI is stating that their motherboard or 21 whatever you want to call it was actually their 22 program that CPI took over. And -- or they sold to 23 CPI, something like that. But that was initially 24 their product. And you know, I don't know what 25 bearing that had on our decision at all but I just</p>
<p style="text-align: right;">Page 11</p> <p>1 serve a couple purposes. One, it will ensure that 2 Mr. Eblen is finished with his question. It will also 3 give me an opportunity to object to the form of the 4 question if I have an objection. 5 THE WITNESS: Okay. 6 MR. STEWARD: It will also be easier on 7 the court reporter who is actually transcribing our 8 discussion as we have it and that's a very difficult 9 job. 10 THE WITNESS: Okay. 11 MR. STEWARD: Does that make sense? 12 THE WITNESS: I see. Okay. Certainly. 13 MR. STEWARD: Thank you. 14 THE WITNESS: You're welcome. 15 BY MR. EBLLEN: 16 Q. All right. So we hit the point where you've 17 talked about running into Shane and the promises he 18 made and I assume at some point did you allow Shane to 19 come into your home? 20 A. Yes. 21 Q. What happened then? 22 A. He sat down with my husband and I and discussed 23 the benefits of using Vivint over our current alarm 24 system, CPI, and so that's basically what happened is 25 he went over their products and their claims and we</p>	<p style="text-align: right;">Page 13</p> <p>1 remember him saying that that used to be their 2 product, that they developed it. 3 Q. Did Shane at any point in time say whether or 4 not your existing CPI equipment would be compatible 5 with Vivint's services? 6 MR. STEWARD: Objection, form, leading. 7 Go ahead. 8 A. Yes, he did. And that actually wound up posing 9 a problem later on. 10 Q. Tell us what you mean by that. 11 A. Well, he stated that our light modules were 12 compatible and they were not. And they actually wound 13 up charging us for those light modules and I had to 14 make a phone call to tell them that Shane said that 15 because he had already told us ahead of time that they 16 were compatible that they would remove that charge, 17 which they did, they reimbursed us for that. He also 18 said -- there was something else and I don't remember 19 what it was. There was another item that was 20 supposedly compatible and it turned out not to be. 21 Q. And that other item, did you make any phone 22 calls to try to get money refunded related to that? 23 MR. STEWARD: Objection, form. 24 A. You know, that I can't honestly -- I can't 25 answer because I don't remember what the item was. I</p>

<p style="text-align: right;">Page 14</p> <p>1 do remember about the modules though, the light 2 modules. And it was a small amount. It was about a 3 \$150 or so and we were reimbursed. 4 Q. Did Shane sell you anything else during the 5 process of speaking to you about Vivint that you later 6 discovered or believed was not truthful or not 7 transparent? 8 MR. STEWARD: Objection, form. 9 A. There was something that he did not say that 10 wound up being a huge issue for us and it wasn't so 11 much what he did say, it was what he did not say 12 that -- 13 Q. And what was that issue? 14 A. He failed to mention or show us in writing that 15 there was a \$1,799 starter kit that they included and 16 he never mentioned it, never showed it to us while we 17 were sitting with him, never discussed it, and we did 18 not find out about it for about three months. We kept 19 trying to get our contract which he stated he was 20 going to bring back that night and he never did. And 21 we kept calling him and he said he was going to send 22 it and he never did. And we kept calling the company 23 and Vivint kept sending us a -- basically a checklist 24 of every single product that they sell and I kept had 25 to keep reminding them that I didn't want a checklist</p>	<p style="text-align: right;">Page 16</p> <p>1 out about later on, what was that related to? 2 A. That was what they call a starter kit and 3 basically I -- in my opinion because nobody could ever 4 explain it properly it was for the pleasure of doing 5 business with Vivint. It was, to me, a bogus charge 6 that they kept telling me I would get refunded and 7 they passed me around from person to person, nothing 8 ever happened, I had to make numerous phone calls, 9 they kept saying that they would refund the money, 10 they had to send it to upper management and get them 11 to okay it and it took months and months and months of 12 making phone call after phone call getting the same 13 runaround until I was finally told, nope, sorry it 14 was -- you're not getting your money back. 15 And -- but there was one other thing I now 16 remember in regard to your initial question. You 17 asked if there was anything else that he told us that 18 we would be getting that we did not and first of all, 19 we did not get the three months paid, we later got a 20 portion of that reimbursed to us. And he was supposed 21 to give us a, like, \$100 fee for signing up and he 22 didn't give that to us. He said he was going to come 23 back and give that us along with the contract, which 24 he never did either one of those things. 25 And then we eventually did get Vivint to pay</p>
<p style="text-align: right;">Page 15</p> <p>1 of what they were selling but I wanted my contract of 2 what I agreed to purchase. 3 And it took them three months to get that to me 4 and that's when I found out about the \$1799 charge 5 that we had no idea and nobody could explain it to me. 6 I made numerous phone calls and spoke with numerous 7 people and nobody could ever tell me what that charge 8 was for. 9 And it took months of phone calls and many 10 people to talk to before I finally got an explanation 11 of what that was. 12 Q. So just to break that down a little bit. On 13 the day that you decided to go with Vivint, to sign up 14 with Vivint, did you get a copy of your contract with 15 them? 16 A. No. 17 MR. STEWARD: Objection. Objection, form. 18 Go ahead. 19 A. We did not. 20 Q. And to break down based on your communications 21 with Shane, what amount of money did you think you 22 would be paying Vivint for your alarm system? 23 A. \$3,729.95. 24 Q. And how did you find out -- so let me start 25 that over. What was the roughly \$1800 that you found</p>	<p style="text-align: right;">Page 17</p> <p>1 us, like, a new customer -- like, I don't even know 2 what it was called but it was for signing up with 3 them. My neighbor who actually had initially talked 4 to us about Vivint, she was supposed to get a finder's 5 fee also and they never sent her anything until months 6 later and it was at my request but they didn't give 7 her that either. 8 Q. So any of the amounts of money that Shane 9 promised to give to you as an incentive, did you 10 receive any of those without calling Vivint? 11 A. No, none of them. 12 Q. All right. So had you not called Vivint and 13 perhaps called Vivint multiple times, do you believe 14 that you would have received the things that Shane 15 promised you? 16 MR. STEWARD: Objection, form. 17 A. Absolutely not. Absolutely not. 18 Q. And throughout this whole transaction with 19 Vivint including the phone calls that you described, 20 how many times would you estimate that you called 21 Vivint to address some of the things that were either 22 promised or not disclosed to you in your interactions 23 with Shane? 24 MR. STEWARD: Objection, form. 25 THE WITNESS: May I answer.</p>

<p style="text-align: right;">Page 18</p> <p>1 MR. STEWARD: Yes.</p> <p>2 A. I would say I made at least -- somewhere</p> <p>3 between 10 and 20 phone calls. And each phone call</p> <p>4 generally -- I talked to about 10 or 15 different</p> <p>5 people, let's put it that way, because I got passed</p> <p>6 around -- I would be on hold for a half an hour in</p> <p>7 between each person, somebody else would come on the</p> <p>8 line, I'd have to tell the story all over again. So</p> <p>9 sometimes I would talk to two or three people during</p> <p>10 one phone call and I would say probably say about 10</p> <p>11 phone calls at least on individual dates.</p> <p>12 Q. Do you have any estimate total, I know you said</p> <p>13 something to the effect of most of the calls would</p> <p>14 last around half an hour, do you have an estimate in</p> <p>15 total of much time you spent dealing with Vivint on</p> <p>16 the issues you've described?</p> <p>17 A. The actual amount of time that I spent on the</p> <p>18 phone each time was over an hour, not a half an hour</p> <p>19 because they would have me tell the story, put me on</p> <p>20 hold for 20 minutes or so, then somebody else would</p> <p>21 come on the line, I'd tell them to story, and then</p> <p>22 we'd have a discussion then they'd transfer me to</p> <p>23 somebody else. And sometimes I even have one note</p> <p>24 here that I was so upset that I wrote down how long I</p> <p>25 was on the phone and it was an hour and 43 minutes and</p>	<p style="text-align: right;">Page 20</p> <p>1 cost of it?</p> <p>2 MR. STEWARD: Objection, form.</p> <p>3 A. None whatsoever. He did not discuss it nor did</p> <p>4 he show us anything in writing that we were being</p> <p>5 charged this dollar amount for any product.</p> <p>6 Q. And I think you already talked about this, the</p> <p>7 date of the transaction did you ever have a copy of</p> <p>8 the contract so that you could look at?</p> <p>9 A. No, we did not.</p> <p>10 MR. STEWARD: Objection, form, asked and</p> <p>11 answered. Go ahead.</p> <p>12 A. No.</p> <p>13 Q. Sorry. Go ahead.</p> <p>14 A. We were just told that he was going to bring it</p> <p>15 back.</p> <p>16 Q. And what all steps did you take to get a copy</p> <p>17 of your contract?</p> <p>18 A. I made numerous phone calls requesting it.</p> <p>19 Q. Did they provide a copy eventually for free?</p> <p>20 MR. STEWARD: Objection, form.</p> <p>21 A. Eventually.</p> <p>22 MR. STEWARD: I'm sorry. Objection, form.</p> <p>23 Go ahead and answer, Ms. Newmark.</p> <p>24 A. They eventually did send me a copy of the</p> <p>25 contract. They kept trying to send me basically an</p>
<p style="text-align: right;">Page 19</p> <p>1 then they disconnected me. So it was -- all of that</p> <p>2 was for nothing.</p> <p>3 So I would say all told I probably spent maybe</p> <p>4 ten hours total trying to get this resolved.</p> <p>5 Q. Did you feel like they were working to try to</p> <p>6 help you get your money back that you were promised?</p> <p>7 MR. STEWARD: Objection, form, leading.</p> <p>8 A. I felt that they were all very, very, polite</p> <p>9 and very skilled at passing the buck basically. They,</p> <p>10 you know, told me how sorry they were and how this was</p> <p>11 so wrong and they will definitely get my money back</p> <p>12 and that they will send it on to a supervisor and that</p> <p>13 they will escalate this because of the situation that</p> <p>14 I had been waiting so long for my money and numerous</p> <p>15 people told me the exact same thing and nothing was</p> <p>16 ever done. And I didn't get money back, I didn't get</p> <p>17 phone calls back for the most part. A couple of them</p> <p>18 did call me back but basically just to tell me that</p> <p>19 they were going to send it on to somebody else and</p> <p>20 then I didn't hear anything so then I would have to</p> <p>21 call them back. And it just kept going on like this</p> <p>22 for a couple of months.</p> <p>23 Q. All right. So focussing now just on this</p> <p>24 starter kit that you described, did you have any sort</p> <p>25 of conversation with Shane about a starter kit and the</p>	<p style="text-align: right;">Page 21</p> <p>1 equipment list of everything that they sold and I had</p> <p>2 to kept correcting them and saying that's not what I</p> <p>3 was requesting, I was requesting a copy of my contract</p> <p>4 and what I bought and what I paid for and after three</p> <p>5 months I finally got somebody to send it to me.</p> <p>6 Q. Did you ever get ahold of Shane when you tried</p> <p>7 to get ahold of him about the issues we've been</p> <p>8 discussing?</p> <p>9 A. No, we did not.</p> <p>10 Q. And how did you reach out to Shane?</p> <p>11 A. My husband called him.</p> <p>12 Q. And on a cell phone?</p> <p>13 MR. STEWARD: Objection, foundation.</p> <p>14 Q. Okay. Let me back up. In the interaction with</p> <p>15 Shane did he give you a phone number?</p> <p>16 A. I believe he gave my husband his phone number.</p> <p>17 Q. And to your knowledge is that the number that</p> <p>18 was used to try to reach out to Shane?</p> <p>19 A. I believe so.</p> <p>20 Q. And as I understand your testimony after the</p> <p>21 day of the transaction did you ever have any</p> <p>22 interaction again with Shane?</p> <p>23 A. I personally did not.</p> <p>24 Q. Did Shane ever come back out to your home and</p> <p>25 provide you either the gift card or the credit for the</p>

<p style="text-align: right;">Page 22</p> <p>1 first three months of monitoring?</p> <p>2 A. No, he did not.</p> <p>3 Q. Okay. So now focusing on the starter kit.</p> <p>4 Explain what interactions you had in your phone calls</p> <p>5 with Vivint about the starter kit and their reaction</p> <p>6 to it.</p> <p>7 MR. STEWARD: Objection, form, leading,</p> <p>8 asked and answered.</p> <p>9 Q. You can answer.</p> <p>10 A. Okay. Beginning back in -- let me see my</p> <p>11 notes. In September I made a phone call because we</p> <p>12 did not receive the money from Shane that he said he</p> <p>13 would be paying the first four months of our -- I'm</p> <p>14 sorry, three months of our service or -- forget what</p> <p>15 it's called, our monthly charge. And they said the</p> <p>16 best they could do is give is four payments of \$40 and</p> <p>17 that was not -- that was, like, about a third or a</p> <p>18 quarter of what our monthly payments were but they</p> <p>19 said that that's all they could do is give us that</p> <p>20 and --</p> <p>21 Q. How much are your monthly payments with Vivint?</p> <p>22 A. That I don't really know.</p> <p>23 Q. Another related question to that. Did you take</p> <p>24 out any third-party financing as it relates to your</p> <p>25 contract with Vivint?</p>	<p style="text-align: right;">Page 24</p> <p>1 you're not getting your money back.</p> <p>2 Q. Do you know what department all of the</p> <p>3 individuals with whom you spoke at Vivint worked in?</p> <p>4 A. They were customer service, that's who I would</p> <p>5 be calling.</p> <p>6 Q. Did your call ever get elevated where you</p> <p>7 talked to somebody outside of customer service?</p> <p>8 A. I spoke to a few different -- no, I actually --</p> <p>9 no, I never did get to speak to any of the upper</p> <p>10 management people that they kept saying that they were</p> <p>11 going to go to. I only got customer service</p> <p>12 individuals that said they would go to upper</p> <p>13 management and they apparently were trying to get this</p> <p>14 money returned to me but they would not have me speak</p> <p>15 with those individuals.</p> <p>16 Q. In all of your dealings in total with Vivint</p> <p>17 related to the issues that you testified about, at the</p> <p>18 end of the day did you feel like you were getting a</p> <p>19 runaround?</p> <p>20 MR. STEWARD: Objection, form.</p> <p>21 A. That would be an understatement.</p> <p>22 Q. Well, how would you describe the treatment you</p> <p>23 got by Vivint's customer service in relation to your</p> <p>24 complaints?</p> <p>25 A. I felt that they were very polite and they were</p>
<p style="text-align: right;">Page 23</p> <p>1 MR. STEWARD: Objection, form.</p> <p>2 A. No.</p> <p>3 Q. All right. And ultimately what was the</p> <p>4 resolution with Vivint on the first three month</p> <p>5 payment issue?</p> <p>6 A. They agreed to give me four months of -- a</p> <p>7 credit of \$40 towards the first four months of our</p> <p>8 monthly service charge. It was not the same as paying</p> <p>9 the full amount, it was only a credit of \$40 and they</p> <p>10 did, in fact, take \$40 off for each of those four</p> <p>11 months.</p> <p>12 Q. All right. And what was the resolution on the</p> <p>13 issue that you raised to Vivint with the payment of</p> <p>14 the starter kit?</p> <p>15 A. They sent me an e-mail saying they sent it to</p> <p>16 opportunities and their response was since the Smart</p> <p>17 Hub was new equipment and not existing the charge</p> <p>18 within the loan is valid. The case has been closed by</p> <p>19 our opportunities, feel free to reach out. So they</p> <p>20 basically washed their hands of it after I'd been told</p> <p>21 a multitude of times by a variety of different people,</p> <p>22 which I took notes and have their names and badge</p> <p>23 numbers and what have you on a few of them, that they</p> <p>24 promised me they would get my money back and obviously</p> <p>25 that did not have happen and they said nope, sorry</p>	<p style="text-align: right;">Page 25</p> <p>1 understanding but I thought it was a complete -- the</p> <p>2 way they treated me was completely false that -- I</p> <p>3 felt like they did this to everybody, that's the way I</p> <p>4 came out feeling that they seemed like they were very</p> <p>5 sorry and they really wanted to fix my problem but</p> <p>6 when it came down to it nothing ever happened and I</p> <p>7 would get disconnected on multiple occasions and I had</p> <p>8 to make so many phone calls and tell the story so many</p> <p>9 times that I felt like I was getting nowhere because I</p> <p>10 kept getting told I was going to get the money back</p> <p>11 and they felt really bad and they were going to</p> <p>12 escalate this and they were going to take it to upper</p> <p>13 management and they were going to get me my money back</p> <p>14 and it never happened.</p> <p>15 So I definitely got the runaround and I felt</p> <p>16 tricked and betrayed and lied to.</p> <p>17 Q. And if we go back to the time that you met</p> <p>18 Shane out by the trash that morning and through all of</p> <p>19 your dealings with Vivint do you feel like they were</p> <p>20 honest with you?</p> <p>21 MR. STEWARD: Objection, form.</p> <p>22 A. I actually do not feel like they were honest</p> <p>23 with me. There were too many different things that</p> <p>24 they were not honest about.</p> <p>25 Q. And do you believe with the experience you've</p>

<p style="text-align: right;">Page 26</p> <p>1 been through had Shane been honest with you and the 2 discussion you had with him that day do you believe 3 that you would have switched to Vivint? 4 MR. STEWARD: Objection, form. 5 A. I would not have switched had I known about 6 that \$1800 charge because I had equipment from CPI 7 which I had already paid in full and there was no 8 reason to have to pay \$1800 to come onboard with 9 Vivint for simply the pleasure of doing business with 10 them and I would never have agreed to that. And the 11 only reason I did agree to make the switch was because 12 of the promises that Shane had made and because of 13 hearing from neighbor's that they had better cameras 14 and we had been having issues with CPI's camera and 15 one other thing that bothered us. But other than that 16 CPI was fabulous and good customer service and we had 17 no reason to change except that the cameras were a big 18 issue and we could see the difference and so we went 19 ahead and made the change. 20 Q. Question about your neighbors, did any of your 21 other neighbors, to your knowledge, have problems with 22 Vivint? 23 MR. STEWARD: Objection. Calls for 24 hearsay. 25 A. Can I answer that?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. And what's your neighbor's name? 2 A. Merelene Valder. 3 Q. Did you have any sort of an issue with having 4 to pay CPI a buyout related to the contract you had 5 with CPI when Vivint came to the home? 6 A. I did initially. However, CPI did -- either -- 7 they either dropped it because I don't think we paid 8 it but they dropped it and they sent me an e-mail 9 stating that I was not responsible for that and they 10 let me out of the contract without paying. 11 Q. Did you still have time left on your contract 12 with CPI? 13 A. I believe so. 14 MR. EBLN: I think those are all the 15 questions I have for you, Ms. Newmark. Thank you for 16 your time. 17 THE WITNESS: You're welcome. 18 EXAMINATION 19 BY MR. STEWARD: 20 Q. Good morning, Ms. Newmark. Again, my name 21 is -- good morning, my name is Matt Steward, I'm an 22 attorney for Vivint here in Salt Lake City, Utah, 23 where unfortunately the smoke from the fires in 24 California has returned to the valley. 25 A. Yes, I've heard.</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Yes, you can. 2 A. Yes. I have one neighbor that I've been 3 dealing directly with who has had the exact same 4 situation. Her dollar amount was smaller, it was 5 \$1200 but she did the exact same thing, making 6 multiple phone calls over a period of months and 7 having the exact same types of conversations and never 8 getting the money back. They never did give her -- 9 her finder's fee until I requested it and they finally 10 did give it to her but they only gave her \$50 instead 11 of 100. And she did tell me about other people in the 12 neighborhood complaining for the same reason as well 13 as this particular individual, Shane. 14 Well, we have a neighborhood Facebook page and 15 we, you know, talk amongst the neighbors and Shane 16 promised multiple people that if they give him a good 17 review and Vivint a good review that they would get a 18 gift card and so they did and apparently Shane signed 19 up more and more people and they never got their gift 20 cards. And so apparently that was something that was 21 going around on Facebook within the neighborhood 22 Faceook page that it's kind of a scam. 23 MR. STEWARD: I'm going to move to strike 24 that testimony to the extent it lacks foundation and 25 contains hearsay.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. We had clear days but we're back in the smoke. 2 A. I feel bad for you. 3 Q. Well, thanks. I wish I was in North Carolina. 4 I noted that it looked like maybe you were referring 5 to some notes or documents as you were responding to 6 Mr. Eblen's questions. Do you have any documents or 7 notes with you? 8 A. I do. 9 Q. Can you identify those for me, what you have? 10 A. Can you excuse me? 11 Q. Absolutely take whatever time you need. 12 MR. EBLN: We'll go off the record. Why 13 don't we take five minutes just in case. 14 THE VIDEOGRAPHER: The time is 15 approximately 11:42:24 a.m., we're now off the record. 16 (A recess was taken.) 17 THE VIDEOGRAPHER: The time is 18 approximately 11:46:49 a.m., we're now on the record. 19 BY MR. STEWARD: 20 Q. Thank you again, Ms. Newmark. And I apologize 21 for the challenges and difficulties you had with 22 Vivint's customer service department, but this lawsuit 23 is about CPI alleging that Vivint and its sales 24 representatives represent or misrepresent to customers 25 that they are CPI or that they're affiliated with CPI</p>

<p style="text-align: right;">Page 30</p> <p>1 in some manner.</p> <p>2 Did Shane do or say anything to cause you to</p> <p>3 believe that Vivint and CPI were the same company?</p> <p>4 MR. EBLIN: I'll object to form. That</p> <p>5 characterization is part of our lawsuit but we don't</p> <p>6 need to get into that today. So object to form.</p> <p>7 A. I will answer that and no, he did not say that</p> <p>8 they were one and the same company.</p> <p>9 Q. Right. In fact, Shane clearly identified</p> <p>10 himself as being there on behalf of Vivint, right?</p> <p>11 A. Yes, he did.</p> <p>12 Q. And you understood Shane was competing for your</p> <p>13 business as a home alarm and automation customer and</p> <p>14 trying to get you signed up for Vivint, a company that</p> <p>15 was different than your existing provider, correct?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Did Shane have anything on his person, a</p> <p>18 hat, a uniform, a shirt, that identified him as being</p> <p>19 a representative of the company Vivint?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. Do you recall was he did -- he have a</p> <p>22 vehicle that was parked within your view that had any</p> <p>23 markings identified as a Vivint vehicle?</p> <p>24 A. Not that I saw. He was walking when I --</p> <p>25 Q. Do you recall if he had a badge that identified</p>	<p style="text-align: right;">Page 32</p> <p>1 Does that panel look like the panel you had</p> <p>2 with CPI if you recall?</p> <p>3 A. If it's not it's very close.</p> <p>4 Q. Okay. I'll represent to you that this is a</p> <p>5 panel manufactured by 2GIG but it sounds like your</p> <p>6 panel was very similar to this; is that right?</p> <p>7 MR. EBLIN: Object to form.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And the Vivint panel that you have now</p> <p>10 is very different than this panel, correct, it's more</p> <p>11 like an iPad?</p> <p>12 A. Correct.</p> <p>13 Q. Now, I understand you had a long drive the</p> <p>14 night before and Shane visited you I think you said</p> <p>15 about 9:00 a.m. the following morning; is that right?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. So was -- but you had a CPI system in</p> <p>18 this home for approximately two years. Was somebody</p> <p>19 else living in the home?</p> <p>20 A. No.</p> <p>21 Q. Okay. You just had a system that you monitored</p> <p>22 or CPI monitored at this home but you hadn't moved</p> <p>23 there full-time yet; is that correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Did you guys -- did you and your husband</p>
<p style="text-align: right;">Page 31</p> <p>1 him as being a Vivint representative?</p> <p>2 A. No, I do not.</p> <p>3 Q. Okay. But in any event nothing he wore or said</p> <p>4 suggested that he was there on behalf of CPI, correct?</p> <p>5 A. No.</p> <p>6 Q. Okay. Now, you had -- you had mentioned that</p> <p>7 Shane told you that the panel you had with CPI had</p> <p>8 been developed by Vivint; do you recall that?</p> <p>9 MR. EBLIN: Objection to form.</p> <p>10 A. Yes, I recall that.</p> <p>11 Q. Okay. And do you recall was your panel with</p> <p>12 CPI a 2GIG panel, that's the number 2 and G-I-G?</p> <p>13 A. I don't recall.</p> <p>14 Q. Okay. Do you still have that panel?</p> <p>15 A. No, I do not.</p> <p>16 Q. Okay. Do you have any reason to believe that</p> <p>17 Shane's representation regarding Vivint's development</p> <p>18 of the control panel you had with CPI was false?</p> <p>19 A. Well, I don't know. I didn't have any reason</p> <p>20 to not believe it. We were just taking his word for</p> <p>21 it. But yeah, we didn't research it or anything but</p> <p>22 we just took his word for it.</p> <p>23 Q. I'm going to share my screen with you a second.</p> <p>24 If I've done this correctly there is a photographic</p> <p>25 image of a panel.</p>	<p style="text-align: right;">Page 33</p> <p>1 vacation there or spend time there?</p> <p>2 A. Yes. We came time multiple times during the</p> <p>3 year and stayed for a few days or a week.</p> <p>4 Q. It was a second home that become a primary home</p> <p>5 when your husband retired; is that fair?</p> <p>6 A. That was the whole point. We bought while the</p> <p>7 prices were good.</p> <p>8 Q. Congratulations on that. And I hope -- sounds</p> <p>9 like that's been a good move for you guys.</p> <p>10 A. Absolutely has been.</p> <p>11 Q. That's great. I asked you about documents or</p> <p>12 notes you had with you. Can you identify just what</p> <p>13 you have there for me.</p> <p>14 A. I have a copy of my schedule of equipment and</p> <p>15 services and a list of the different items that we</p> <p>16 purchased and one of the very first thing it says</p> <p>17 Vivint Takeover Kit, 1799 full price. And I had put a</p> <p>18 note there that this was never discussed or shown in</p> <p>19 writing or given the option to decline.</p> <p>20 Q. Right.</p> <p>21 A. And I just wrote notes from conversations that</p> <p>22 I had with different people and I put dates and, like,</p> <p>23 little short notes on multiple things.</p> <p>24 Q. Got it. You had referenced a price of</p> <p>25 \$3,727.95 if I got that right. And what do you</p>

<p style="text-align: right;">Page 34</p> <p>1 understand that price to be?</p> <p>2 A. For the panel, the main panel, and the door</p> <p>3 locks. What else did we get? We got the doorbell</p> <p>4 camera, we got smoke detectors, CO2 detectors, and I</p> <p>5 think that's basically it. The equipment that's what</p> <p>6 we thought we were paying that amount for, was the</p> <p>7 equipment.</p> <p>8 Q. Okay. And I'm surprised because my</p> <p>9 understanding is that the -- the starter kit is</p> <p>10 actually -- includes some of the equipment. Are you</p> <p>11 saying that you believe that the equipment charge of</p> <p>12 3700 -- approximately \$3700 was in addition to the</p> <p>13 17 -- or almost \$1800?</p> <p>14 MR. EBLEN: Object to form.</p> <p>15 A. Right.</p> <p>16 Q. Is that your understanding?</p> <p>17 A. That's my understanding, yes.</p> <p>18 Q. I want -- that surprises me and so I'll have</p> <p>19 somebody reach out to you about that because I'm also</p> <p>20 a Vivint customer and when I purchased the equipment</p> <p>21 and like you -- well, let me ask this, when were you</p> <p>22 given the option -- were you given the option to</p> <p>23 either finance the equipment over time or pay for it</p> <p>24 upfront?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 36</p> <p>1 suite of equipment; is that fair?</p> <p>2 A. Yes.</p> <p>3 MR. EBLEN: Objection.</p> <p>4 Q. And did you -- do you have the Vivint app on</p> <p>5 your phone? If you can see that where --</p> <p>6 A. Yes.</p> <p>7 Q. Where it pulls up the cameras where you can</p> <p>8 view from your home; do you have that feature?</p> <p>9 A. Yes.</p> <p>10 Q. Is that a feature that you were attracted to</p> <p>11 when you made the decision to go with Vivint?</p> <p>12 A. Yes.</p> <p>13 Q. And you would agree with me that the Vivint</p> <p>14 suite of equipment you ordered is fair superior to the</p> <p>15 equipment that was being provided by CPI, right?</p> <p>16 MR. EBLEN: Object to form.</p> <p>17 A. We did like it better. It had a few things</p> <p>18 that we did like better.</p> <p>19 Q. And did you get the smart exterior high</p> <p>20 definition cameras?</p> <p>21 A. Yes.</p> <p>22 Q. And you would agree with me that that provided</p> <p>23 a far superior quality image than the CPI camera you</p> <p>24 had?</p> <p>25 MR. EBLEN: Object to form.</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. Okay. And you elected to pay for it upfront;</p> <p>2 is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And do you have the page that shows at</p> <p>5 equipment charge in addition to the \$1800 charge?</p> <p>6 A. No, it just -- it lumps it all together.</p> <p>7 Q. Okay. And --</p> <p>8 A. It's called a Smart Home Bundle.</p> <p>9 Q. Right. And that should be just the equipment</p> <p>10 charge so I will have somebody reach out to you and --</p> <p>11 A. I do have something under equipment name and</p> <p>12 pricing it says keypad, pad 1 \$50 that's --</p> <p>13 Q. Right. That should all be totalled up, right?</p> <p>14 So they itemize the equipment, the itemize what that</p> <p>15 equipment costs, sometimes they waive certain</p> <p>16 equipment charges, and then is that totalled at the</p> <p>17 bottom and is that the \$3700 amount?</p> <p>18 MR. EBLEN: Object to form.</p> <p>19 A. That was not totalled. I would have to</p> <p>20 actually total that.</p> <p>21 Q. Okay. Don't worry about it. But I am going to</p> <p>22 have somebody reach out to you because the equipment</p> <p>23 should be one charge, there's not an additional charge</p> <p>24 for the equipment.</p> <p>25 It sounds like you ordered a fairly robust</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Do you recall calling CPI to cancel your</p> <p>3 CPI contract?</p> <p>4 A. I don't specifically remember if I called or</p> <p>5 e-mailed but I believe I did call.</p> <p>6 Q. Okay. And do you recall telling CPI, and these</p> <p>7 are your words which I quite liked, that their cameras</p> <p>8 sucked, the quality sucked; do you recall using those</p> <p>9 words?</p> <p>10 MR. EBLEN: Object to form.</p> <p>11 A. No, I don't, but that sounds like me.</p> <p>12 Q. Okay. And is it your opinion that the CPI</p> <p>13 cameras sucked?</p> <p>14 A. Yes, it is my opinion.</p> <p>15 Q. Right. And you used somewhat less colorful</p> <p>16 word you also said they're just horrible. Do you</p> <p>17 recall telling CPI that its cameras were just</p> <p>18 horrible?</p> <p>19 A. No, I don't remember saying that but I may</p> <p>20 have.</p> <p>21 Q. Okay. Do you recall telling -- well,</p> <p>22 complaining to CPI that their doorbell camera -- I</p> <p>23 know this is an exaggeration but you said it sends</p> <p>24 you, like, 485 billion texts and e-mails over one</p> <p>25 night. That if a gnat flies by you receive a text and</p>

<p style="text-align: right;">Page 38</p> <p>1 an e-mail and, quote, unquote, it was driving you 2 insane? 3 MR. EBLEN: Object to form. 4 A. I definitely do remember that. 5 Q. That the CPI -- telling CPI that their system 6 was driving you insane? 7 A. Yes. 8 Q. Okay. 9 A. Because both my husband and I would both get 10 the same text and ding all through the night and we 11 would have literally a gnat fly by and it would send 12 us a message and we would be deleting hundreds of text 13 messages every morning for every ding that we got 14 throughout the night and it was driving us nuts. And 15 we tried getting the sensitivity adjusted and nothing 16 would stop it. So that was the main reason that we 17 were unhappy with CPI but everything pretty much we 18 were okay with. 19 Q. Right. But isn't it true that you called CPI 20 not just once but on multiple occasions to complain 21 about the doorbell camera not functioning properly? 22 A. It functioned properly and we did make phone 23 calls regarding the sensitivity of it because it 24 literally was going off when a fly or a gnat or a moth 25 would fly by and we were not under the impression that</p>	<p style="text-align: right;">Page 40</p> <p>1 Do you recall telling CPI that about the Vivint 2 system when you called to cancel? 3 A. I don't recall but it's possible. 4 Q. And that would be accurate, right? I mean, you 5 were being truthful at that time? 6 A. If that's what -- yeah. I mean -- and that 7 still stands. Their equipment is good, I am very 8 happy with Vivint. 9 Q. Right. Your complaint is about, you know, you 10 think that Shane promised a prepaid credit card of 11 \$100, he promised to pay the first three months and 12 you haven't received an adequate explanation for this 13 starter kit and the \$1800 charge with respect to the 14 starter kit, right? 15 A. Well, it's more than that. I never got an 16 explanation, nobody ever told me what it was, every 17 time I would ask they would say hold on let me 18 transfer you to somebody who can explain that. I 19 would tell the story to that person and they would say 20 I totally understand, you're right, you should get the 21 money back, we will escalate this and let me have this 22 go to upper management and they will get you your 23 money. And so it sounded to me like they were going 24 to get me my money back on multiple occasions they 25 were going to refund me my money but nobody would</p>
<p style="text-align: right;">Page 39</p> <p>1 it was supposed to be that sensitive and so we were 2 unhappy with the cameras overall with the clarity, 3 with the fact that it did not cover as much area as we 4 thought it was going to, and it didn't record when we 5 actually had people come up into our driveway even 6 though you could see in the camera that they were 7 there, it didn't notify us on occasion, other 8 occasions it did. So it was random. 9 And that was our main complaint was the camera 10 and the sensitivity. And that was the reason that we 11 were willing to entertain the idea of talking to 12 another alarm company because it wasn't something that 13 was getting resolved. 14 Q. By CPI? CPI wasn't resolving your consumer 15 concerns about the sensitivity of the doorbell camera 16 concerns; is that fair? 17 A. That's fair. 18 Q. And that's why you were willing to listen to 19 Shane sales presentation regarding the Vivint 20 equipment? 21 A. Correct. 22 Q. Okay. Do you recall on one of the phone calls 23 telling CPI that the Vivint system is great. Well, 24 this is -- these are your words, quote, the system is 25 great, control panel is better, end quote.</p>	<p style="text-align: right;">Page 41</p> <p>1 explain what it was. Every single time I would ask 2 what is this for, they would say hold on let me 3 transfer you to somebody. It was every time. 4 Q. And I think we all can share your exasperation 5 with the shared human experience of calling a company 6 and trying to get them address the situation and being 7 transferred around and having to retell the same story 8 over and over, right? That was part of your 9 frustration? 10 A. That was a huge part of my frustration and 11 getting no result and nobody doing anything and 12 getting hung up on multiple times. 13 Q. I apologize for that. That would be 14 frustrating to me as well and again, I will commit to 15 having somebody to reach out to you and get that 16 straightened out. 17 A. You should also have them reach out to me to 18 get my three months of full service charge instead of 19 just the \$40 because that was something that was told 20 to us and that never happened. You know, I got, you 21 know, a little bit of compensation but not what we 22 were told. 23 Q. Yeah. Understood. I got that note and I will 24 do that -- I will do that as well. I'll make sure 25 somebody reaches out to you shortly to address both of</p>

<p style="text-align: right;">Page 42</p> <p>1 those concerns.</p> <p>2 Do you -- are you familiar with -- about the</p> <p>3 same time you went with Vivint are you familiar with</p> <p>4 some news reports about comments made by CPI's CEO an</p> <p>5 individual by the name of Ken Gill?</p> <p>6 A. No, I'm not familiar.</p> <p>7 Q. Let me see if this refreshes your recollection.</p> <p>8 There was -- this article characterizes it as a</p> <p>9 racially insensitive e-mail that was leaked. I</p> <p>10 believe this contains -- so there was an e-mail by</p> <p>11 CPI's CEO that caused quite a stir.</p> <p>12 A. I actually -- I do remember vaguely something</p> <p>13 about that but can you remind me of what your question</p> <p>14 was?</p> <p>15 Q. Yeah. My question was, it sounds like this did</p> <p>16 refresh your recollection that you recall some news</p> <p>17 about Mr. Gill's comment. Did that play any role in</p> <p>18 your decision to cancel your CPI system?</p> <p>19 MR. EBLEN: Form and foundation.</p> <p>20 A. No.</p> <p>21 Q. Okay. Do you recall having a phone call with</p> <p>22 CPI where you were complaining that they were charging</p> <p>23 you an equipment charge when you cancelled even though</p> <p>24 you had paid for the CPI equipment upfront? It was a</p> <p>25 \$905 charge, they said -- when you called to cancel</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. Okay. And did they address your complaint at</p> <p>2 that time and did you, in fact, stop receiving</p> <p>3 monitoring e-mails from CPI?</p> <p>4 A. I don't recall. Eventually we did. I don't</p> <p>5 know if that call prompted it immediately or not.</p> <p>6 Q. Okay.</p> <p>7 A. I apologize. I don't remember --</p> <p>8 Q. That's fine.</p> <p>9 A. -- distinctly.</p> <p>10 MR. STEWARD: Let me do this, I think I'm</p> <p>11 almost finished with my questions but if we could go</p> <p>12 off the record for five minutes if anybody needs to</p> <p>13 take a bathroom break or get a drink of water I could</p> <p>14 just review my notes and make sure I'm finished. Is</p> <p>15 that okay.</p> <p>16 THE WITNESS: Fine by me.</p> <p>17 MR. STEWARD: Okay. Don't leave the</p> <p>18 meeting, we're just going to go off the record. Okay?</p> <p>19 THE WITNESS: All right.</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 approximately 12:09:38 p.m., we're now off the record.</p> <p>22 (A recess was taken.)</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 approximately 12:17:21 p.m., we're now on the record.</p> <p>25 MR. STEWARD: Ms. Newmark, those are all</p>
<p style="text-align: right;">Page 43</p> <p>1 you were informed that there was an equipment charge</p> <p>2 of \$905 remaining that you were owed; do you recall</p> <p>3 that?</p> <p>4 A. Yes, vaguely. Yes.</p> <p>5 Q. And do you recall your response was no, that's</p> <p>6 not correct, I actually paid for the equipment upfront</p> <p>7 similar to what you did with Vivint?</p> <p>8 MR. EBLEN: Object to form.</p> <p>9 A. I actually don't recall this conversation but I</p> <p>10 do remember that CPI was charging me for something and</p> <p>11 I did make a phone call to them and they decided not</p> <p>12 to charge me after all and they wrote me an e-mail</p> <p>13 that states that they are releasing me from any</p> <p>14 obligation, that I do not have to pay that.</p> <p>15 Q. And giving the challenges and problems you had</p> <p>16 with the CPI system, do you think that's a fair</p> <p>17 resolution that CPI let you out of your contract?</p> <p>18 MR. EBLEN: Object to form.</p> <p>19 A. I thought it was fair.</p> <p>20 Q. Yeah. Do you recall calling CPI in late July</p> <p>21 2020 to complain that even though you had elected to</p> <p>22 go with the Vivint service and cancel the CPI service</p> <p>23 that you were still receiving monitoring e-mails from</p> <p>24 CPI?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 45</p> <p>1 my questions. Thank you very much for your time</p> <p>2 today.</p> <p>3 MR. EBLEN: Thank you Ms. Newmark, I just</p> <p>4 have a couple of short follow-up questions.</p> <p>5 RE-EXAMINATION</p> <p>6 BY MR. EBLEN:</p> <p>7 Q. While we were off the record did Mr. Steward,</p> <p>8 Vivint's lawyer, tell you that he would have somebody</p> <p>9 from Vivint call you about the complaints you had</p> <p>10 regarding all the pricing issues?</p> <p>11 A. Yes, he did.</p> <p>12 Q. And up until this point had anybody</p> <p>13 communicated with you that directly about a</p> <p>14 willingness to solve your issues?</p> <p>15 A. No.</p> <p>16 Q. Mr. Steward asked you some questions about</p> <p>17 which system you like better, which equipment you like</p> <p>18 better. And my question is, in our American economy</p> <p>19 do you agree that competition between companies is a</p> <p>20 good thing?</p> <p>21 A. Absolutely.</p> <p>22 Q. Do you believe that Americans should have the</p> <p>23 ability to choose based on things like price, service,</p> <p>24 honesty, technology which company they choose to use</p> <p>25 for products and services?</p>


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1 MR. STEWARD: Objection, form, leading.
2 A. I absolutely agree to all of those.
3 Q. In competing do you believe that businesses
4 should be honest to their customers or potential
5 customers?
6 A. Definitely.
7 Q. From the day that you met Shane to the end of
8 your time trying to get ahold of him do you feel like
9 Shane on behalf of Vivint was honest with you and your
10 husband?
11 MR. STEWARD: Objection, form.
12 A. Not at all.
13 MR. EBLIN: Those are all the questions I
14 have for you. Thank you.
15 RE-EXAMINATION
16 BY MR. STEWARD:
17 Q. Just one question, Ms. Newmark. Shane was
18 honest about the fact that he was there on behalf of
19 Vivint, right?
20 A. Right.
21 Q. He was honest about the fact that Vivint and
22 CPI are competitors, right?
23 A. Right.
24 MR. STEWARD: Okay. Thank you that's all
25 I have.

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1 THE WITNESS: Okay.
2 MR. EBLIN: Good luck with the pool.
3 THE WITNESS: Thank you. Can't wait.
4 Won't be ready till Christmas. That's not going to do
5 me a whole lot of good this year. But thank you and
6 good luck with yours.
7 THE VIDEOGRAPHER: This concludes the
8 video deposition of Janet Newmark consisting of three
9 media units. The time is approximately 12:20:07 p.m.,
10 we're now off the record.
11 (Off the record at 12:20 p.m.)
12 (Signature was waived.)
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1 STATE OF NORTH CAROLINA
COUNTY OF GUILFORD
2
3 REPORTER'S CERTIFICATE
4 I, Erin Ramsey, a Notary Public in and for the
5 State of North Carolina, do hereby certify that there
6 came before me on Wednesday, the 25th day of August,
7 2021, the person hereinbefore named, in Cabarrus
8 County, who was by me duly sworn to testify to the
9 truth and nothing but the truth of his knowledge
10 concerning the matters in controversy in this cause;
11 that the witness was thereupon examined under oath,
12 the examination reduced to typewriting under my
13 direction, and the deposition is a true record of the
14 testimony given by the witness.
15 I further certify that I am neither attorney or
16 counsel for, nor related to or employed by, any
17 attorney or counsel employed by the parties hereto or
18 financially interested in the action.
19 IN WITNESS WHEREOF, I have hereto set my hand,
20 this the 30th day of August, 2021, according to the
21 emergency video notarization requirements contained in
22 G.S. 10B-25.
23
24 
25 Erin Ramsey, Notary Public
Notary Number: 201814200166

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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